

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 159

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO CRIMINAL LAW; EXPANDING AND CLARIFYING THE CRIMES  
OF CRUELTY TO ANIMALS AND AGGRAVATED CRUELTY TO ANIMALS;  
INCREASING PENALTY WHEN CRUELTY CAUSES DEATH OR GREAT BODILY  
HARM; CLARIFYING THE APPLICATION OF THE PRACTICE OF VETERINARY  
MEDICINE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-18-1 NMSA 1978 (being Laws 1999,  
Chapter 107, Section 1, as amended) is amended to read:

"30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO  
ANIMALS--PENALTIES--EXCEPTIONS.--

A. As used in this section:

(1) "animal" ~~[does not include]~~ means all  
animals, including captive reptiles, but not insects [or  
reptiles];

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underscored material = new  
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1                   (2) "great bodily harm" means an injury that  
2 creates a high probability of death; that causes serious  
3 disfigurement; or that results in permanent or protracted loss  
4 or impairment of the function of any member or organ of the  
5 body;

6                   (3) "lawful justification" means:

7                             (a) humanely destroying a sick or  
8 injured animal; or

9                             (b) protecting a person or animal from  
10 death or injury due to an attack by another animal;

11                   (4) "mistreating" means tormenting,  
12 torturing, mutilating, poisoning or otherwise inflicting  
13 unnecessary physical injury upon an animal;

14                   (5) "negligently" refers to criminal  
15 negligence and means that a person knew or should have known of  
16 the danger involved and acted with a reckless disregard for the  
17 safety or health of an animal; and

18                   (6) "sustenance" means food, water or shelter,  
19 provided that shelter with regard to livestock shall be in  
20 keeping with commonly accepted agricultural animal husbandry  
21 practices.

22                   B. Cruelty to animals consists of a person:

23                             (1) negligently mistreating [~~injuring~~] an  
24 animal;

25                             (2) negligently killing an animal without

1 lawful justification [~~or tormenting an animal; or~~];

2 [~~(2)~~] (3) intentionally abandoning [~~or~~] an  
3 animal under that person's custody or control;

4 (4) failing to provide necessary sustenance to  
5 an animal under that person's custody or control; or

6 (5) leaving an animal unattended and confined  
7 inside a motor vehicle and physical injury or death results.

8 [~~C. As used in Subsection B of this section,~~  
9 ~~"lawful justification" means:~~

10 (1) ~~humanely destroying a sick or injured~~  
11 ~~animal; or~~

12 (2) ~~protecting a person or animal from death~~  
13 ~~or injury due to an attack by another animal.~~

14 ~~D.] C.~~ C. Whoever commits cruelty to animals is guilty  
15 of a misdemeanor [~~and shall be sentenced pursuant to the~~  
16 ~~provisions of Section 31-19-1 NMSA 1978]~~ and, upon a fourth or  
17 subsequent conviction [~~for committing cruelty to animals, the~~  
18 ~~offender]~~, is guilty of a fourth degree felony [~~and shall be~~  
19 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~  
20 ~~1978]~~.

21 [~~E. Extreme]~~ D. Aggravated cruelty to [~~animals]~~ an  
22 animal consists of a person:

23 (1) intentionally or maliciously [~~torturing,~~  
24 ~~mutilating, injuring or poisoning]~~ mistreating an animal; [~~or~~]

25 (2) intentionally or maliciously killing an

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[bracketed material] = delete

1 animal without lawful justification;

2 (3) negligently mistreating an animal that  
3 results in death or great bodily harm;

4 (4) intentionally abandoning an animal under  
5 the person's custody or control that results in death or great  
6 bodily harm; or

7 (5) failing to provide necessary sustenance to  
8 an animal under the person's custody or control that results in  
9 death or great bodily harm.

10 ~~[F.] E.~~ E. Whoever commits ~~[extreme]~~ aggravated  
11 cruelty to [animals] an animal is guilty of a fourth degree  
12 felony. ~~[and shall be sentenced pursuant to the provisions of~~  
13 ~~Section 31-18-15 NMSA 1978~~

14 ~~G.] F.~~ F. The court may order a person convicted for  
15 committing cruelty to animals to participate in an animal  
16 cruelty prevention program or an animal cruelty education  
17 program. The court may also order a person convicted for  
18 committing cruelty to animals or extreme cruelty to animals to  
19 obtain psychological counseling for treatment of a mental  
20 health disorder if, in the court's judgment, the mental health  
21 disorder contributed to the commission of the criminal offense.  
22 The offender shall bear the expense of participating in an  
23 animal cruelty prevention program, animal cruelty education  
24 program or psychological counseling ordered by the court.

25 ~~[H.] G.~~ G. If a child is adjudicated of cruelty to

1 animals, the court shall order an assessment and any necessary  
2 psychological counseling or treatment of the child.

3 ~~[F.]~~ H. The provisions of this section do not apply  
4 to:

5 (1) fishing, hunting, falconry, taking and  
6 trapping, as provided in Chapter 17 NMSA 1978;

7 (2) the practice of veterinary medicine, as  
8 provided in Chapter 61, Article 14 NMSA 1978, when the practice  
9 is in accordance with commonly accepted veterinary practices.

10 In the event of a dispute, the board of veterinary medicine  
11 shall determine what is a commonly accepted veterinary  
12 practice;

13 (3) rodent or pest control, as provided in  
14 Chapter 77, Article 15 NMSA 1978;

15 (4) the treatment of livestock and other  
16 animals used on farms and ranches for the production of food,  
17 fiber or other agricultural products, when the treatment is in  
18 accordance with commonly accepted agricultural animal husbandry  
19 practices;

20 (5) the use of commonly accepted Mexican and  
21 American rodeo practices, unless otherwise prohibited by law;

22 (6) research facilities ~~[licensed]~~ registered  
23 pursuant to ~~[the provisions of]~~ 7 U.S.C. Section 2136, except  
24 when knowingly operating outside provisions governing the  
25 treatment of animals of a research or maintenance protocol

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1 approved by the institutional animal care and use committee of  
2 the facility; or

3 (7) other [~~similar~~] commonly accepted  
4 activities not otherwise prohibited by law.

5 [~~J.~~] I. If there is a dispute as to what  
6 constitutes commonly accepted agricultural animal husbandry  
7 practices or commonly accepted rodeo practices, the New Mexico  
8 livestock board shall hold a hearing to determine if the  
9 practice in question is a commonly accepted agricultural animal  
10 husbandry practice or commonly accepted rodeo practice."

11 Section 2. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2009.